

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 191

BY BUSINESS COMMITTEE

AN ACT

RELATING TO LIENS AND FORECLOSURES; AMENDING SECTION 45-1505, IDAHO CODE, TO DELETE THE REQUIREMENT THAT A CERTAIN NOTICE BE ON CANARY YELLOW OR SOME SIMILARLY COLORED YELLOW PAPER; AND AMENDING SECTION 45-1602, IDAHO CODE, TO DELETE THE REQUIREMENT THAT A CERTAIN NOTICE BE ON CANARY YELLOW OR SOME SIMILARLY COLORED YELLOW PAPER.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 45-1505, Idaho Code, be, and the same is hereby amended to read as follows:

45-1505. FORECLOSURE OF TRUST DEED, WHEN. The trustee may foreclose a trust deed by advertisement and sale under this act if:

(1) The trust deed, any assignments of the trust deed by the trustee or the beneficiary and any appointment of a successor trustee are recorded in mortgage records in the counties in which the property described in the deed is situated; and

(2) There is a default by the grantor or other person owing an obligation the performance of which is secured by the trust deed or by their successors in interest with respect to any provision in the deed which authorizes sale in the event of default of such provision; and

(3) The trustee or beneficiary shall have (a) filed for record in the office of the recorder in each county wherein the trust property, or some part or parcel, is situated, a notice of default identifying the deed of trust by stating the name or names of the trustor or trustors and giving the book and page where the same is recorded, or a description of the trust property, and containing a statement that a breach of the obligation for which the transfer in trust is security has occurred, and setting forth the nature of such breach and his election to sell or cause to be sold such property to satisfy such obligation; and (b) mailed a copy of such notice by registered or certified mail, return receipt requested, to any person requesting such notice of record as provided in section 45-1511, Idaho Code. Service by mail in accordance with this subsection (3) shall be deemed effective at the time of mailing. In addition, the trustee shall mail the notice required in this section to any individual who owns an interest in property which is the subject of this section. Such notice shall be accompanied by and affixed to the following notice in twelve (12) point boldface type, on a separate sheet of ~~canary yellow or some similarly colored yellow~~ paper, no smaller than eight and one-half (8 1/2) inches by eleven (11) inches:

"NOTICE REQUIRED BY IDAHO LAW

Mortgage foreclosure is a legal proceeding where a lender terminates a borrower's interest in property to satisfy unpaid debt secured by the property. This can mean

that when a homeowner gets behind on his or her mortgage payments, the lender forces a sale of the home on which the mortgage loan is based. Some individuals or businesses may say they can "save" your home from foreclosure. You should be cautious about such claims. It is important that you understand all the terms of a plan to "rescue" you from mortgage foreclosure and how it will affect you. It may result in your losing valuable equity that you may have in your home. If possible, you should consult with an attorney or financial professional to find out what other options you may have. Do not delay seeking advice, because the longer you wait, the fewer options you may have.

Under Idaho law, you have five (5) days to rescind or undo certain contracts or agreements that relate to transferring interests in property or money in a foreclosure situation. An attorney or financial professional can tell you more about this option."

If the trust deed, or any assignments of the trust deed, are in the Spanish language, the written notice set forth in this section shall be in the Spanish language on a form to be prepared and made available by the office of the attorney general.

(4) No action, suit or proceeding has been instituted to recover the debt then remaining secured by the trust deed, or any part thereof, or if such action or proceeding has been instituted, the action or proceeding has been dismissed.

SECTION 2. That Section 45-1602, Idaho Code, be, and the same is hereby amended to read as follows:

45-1602. CONTRACT NOTICE. (1) During the foreclosure period described in section 45-1506, Idaho Code, any contract or agreement with the owner or owners of record that involves the transfer of any interest in residential real property, as defined in section 45-525(5)(b), Idaho Code, subject to foreclosure must be in writing and must be accompanied by and affixed to the following notice in twelve (12) point boldface type and on a separate sheet of ~~canary yellow or some similarly colored yellow~~ paper no smaller than eight and one-half (8 1/2) inches by eleven (11) inches:

"NOTICE REQUIRED BY IDAHO LAW

Mortgage foreclosure is a legal proceeding where a lender terminates a borrower's interest in property to satisfy unpaid debt secured by the property. This can mean that when a homeowner gets behind on his or her mortgage payments, the lender forces a sale of the home on which the mortgage loan is based. Some individuals or businesses may say they can "save" your home from foreclosure. You should be cautious about such claims. It is important that you understand all the terms of a plan to "rescue" you from mortgage foreclosure and how it will affect you. It may result in your losing valuable equity that you may have in your home. If possible, you should consult with an attorney or financial professional to find out what other options you may have. Do not delay seeking advice, because the longer you wait, the fewer options you may have.

1 You may find helpful information online. One excellent source is the Department
2 of Housing and Urban Development (HUD) website which can be found at
3 "<http://www.hud.gov/foreclosure/index.cfm>". HUD also maintains on its website
4 a list of approved housing counselors who can provide free information to assist
5 homeowners with financial problems. Another good source of information is found
6 at the Office of the Attorney General's website at "<http://www2.state.id.us/ag/>".

7 Under Idaho law, you have five (5) days to rescind or undo certain contracts or
8 agreements that relate to transferring interests in property or money in a foreclosure
9 situation. An attorney or financial professional can tell you more about this
10 option."

11 (2) If during the foreclosure period described in section 45-1506, Idaho Code, any
12 contract or agreement that involves the transfer of any interest in residential real property,
13 as defined in section 45-525(5)(b), Idaho Code, was solicited, negotiated, or represented to
14 the consumer in the Spanish language, the written notice to be provided to the consumer and
15 set forth in this section shall be in the Spanish language on a form to be prepared and made
16 available by the office of the attorney general.